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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/701,289 05/29/01 LAMBERT

F PM-275343/C1

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HM12/0809

EXAMINER

FORD, V

ART UNIT

PAPER NUMBER

1645

DATE MAILED:

08/09/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

File Copy

<b>Office Action Summary</b>	<b>Application No.</b> 09/701,289	<b>Applicant(s)</b> LAMBERT ET AL.	
	<b>Examiner</b> Vanessa L. Ford	<b>Art Unit</b> 1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 May 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-34 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All   b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in response to this action, to elect a single invention to which the claims must be restricted.

### **Election/Restrictions**

- |            |  |
|------------|--|
| Group I    | Claims 1- 5, 7, 18 and 34 are drawn to an isolated compound, composition and vaccine.                        |
| Group II   | Claims 8-15 are drawn to a method of testing for a gram-positive bacterial infection in a mammalian subject. |
| Group III  | Claims 16-17 are drawn to a diagnostic test kit.   |
| Group IV   | Claims 19-20 <sup>are</sup> <del>is</del> drawn to an immunoglobulin molecule and an eukaryotic cell.        |
| Group V    | Claims 21 and 29 are drawn to a method of making a composition in accordance with claim 5.                   |
| Group VI   | Claims 22-28 are drawn to bacterial strains.   |
| Group VII  | Claims 30-31 are drawn to a method of making an immunoglobulin.  |
| Group VIII | Claim 32 is drawn to a method of screening for an immunoglobulin or antigen-binding variant.                 |
| Group IX   | Claim 33 is drawn to a method of inducing antibodies in a human subject.                                     |

2. The inventions listed as Groups I-V do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

Group I lacks novelty under PCT Article 33(2) as being anticipated by Oltvoort et al, (*Carbohydrate Research*: 130(1984) 147-163). Oltvoort et al teach a lipoteichoic acid-carrier fragment containing three glycerol units and one glycolipid unit synthesized by use of the bifunctional phosphorylating reagents bis(1-benotriazolyl) 2,2,2-tribromoethyl and 2-chlorophenyl phosphates. Protection of the sn-glycerol derivatives was achieved by use of benzyl as a permanent and allyl, 1-propenyl and 4-oxovaleryl as temporary protecting groups; the glycolipid unit was protected by benzyl groups except the single primary alcohol required coupling (see entire article).

Group I is the main invention in this application and it lacks novelty, therefore the other claims are not so linked by a special technical feature within the meaning of PCT Rule 13.2 so as to form a single inventive concept.

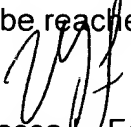
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3. Any inquiry of the general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Office Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for the Group 1600 is (703) 308-4242.

Any inquiry concerning this communication from the examiner should be directed to Vanessa L. Ford, whose telephone number is (703) 308-4735. The examiner can normally be reached on Monday – Friday from 7:30 AM to 4:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached at (703) 308-3909.

  
Vanessa L. Ford  
Biotechnology Patent Examiner  
August 7, 2001

  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600